

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution –General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 5-18-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that office visits with and without manipulation, joint mobilization, myofascial release, massage, therapeutic exercise, mechanical traction, chiropractic manipulative therapy, therapeutic procedures-group, physical performance testing, diathermy, electrical stimulation with ultrasound, and range of motion testing from 5-23-03 through 10-17-03 were not medically necessary. Therefore, the requestor is not entitled to a reimbursement of the paid IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were not the only fees involved in the medical dispute to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 6-28-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

- Regarding CPT Code 99211 for dates of service 9-22-03 - this service was billed by the requestor and denied by the carrier. It was denied as "O" – Denial after reconsideration. This date of service will be reviewed in accordance with Rule 134.202. Since the carrier did not provide a valid basis for the denial of this service, **reimbursement is recommended in the amount of \$23.35.**
- Regarding CPT Code 97110 for date of service 9-22-03: Recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section indicate overall deficiencies in the adequacy of the documentation of this Code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one." Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The MRD declines to order payment because the SOAP notes do not clearly delineate exclusive one-on-one treatment nor did the requestor identify the

severity of the injury to warrant exclusive one-to-one therapy. **Additional reimbursement not recommended.**

- Regarding CPT Code 97150 for date of service 9-22-03 - this service was billed by the requestor and denied by the carrier. It was denied as “O” – Denial after reconsideration. This date of service will be reviewed in accordance with Rule 134.202. Since the carrier did not provide a valid basis for the denial of this service, **reimbursement is recommended in the amount of \$21.37.**
- Regarding CPT Code 99213 for date of service 9-25-03 - this service was billed by the requestor and denied by the carrier. It was denied as “O” – Denial after reconsideration. This date of service will be reviewed in accordance with Rule 134.202. Since the carrier did not provide a valid basis for the denial of this service, **reimbursement is recommended in the amount of \$58.99.**
- Regarding CPT Code 97750-MT for date of service 9-25-03 - this service was billed by the requestor and denied by the carrier. It was denied as “O” – Denial after reconsideration. This date of service will be reviewed in accordance with Rule 134.202. Since the carrier did not provide a valid basis for the denial of this service, **reimbursement is recommended in the amount of \$133.60.**
- Regarding CPT Code 95851 for date of service 9-25-03 - this service was billed by the requestor and denied by the carrier. It was denied as “O” – Denial after reconsideration. This date of service will be reviewed in accordance with Rule 134.202. Since the carrier did not provide a valid basis for the denial of this service, **reimbursement is recommended in the amount of \$30.60.**
- Regarding CPT Code 99212-25 for date of service 9-26-03 - this service was billed by the requestor and denied by the carrier. It was denied as “O” – Denial after reconsideration. This date of service will be reviewed in accordance with Rule 134.202. Since the carrier did not provide a valid basis for the denial of this service, **reimbursement is recommended in the amount of \$41.91**
- Regarding CPT Code 98940 for date of service 9-25-03 - this service was billed by the requestor and denied by the carrier. It was denied as “O” – Denial after reconsideration. This date of service will be reviewed in accordance with Rule 134.202. Since the carrier did not provide a valid basis for the denial of this service, **reimbursement is recommended in the amount of \$30.60.**
- Regarding CPT Code 99080-73 for date of service 9-26-03 – this service was denied as “O” Denial after reconsideration. However, the TWCC-73 is a required report and the Medical Review Division has jurisdiction in this matter. Requester submitted relevant information to support delivery of service. Per 134.1(c) **recommend reimbursement of CPT Code 99080-73 for date of service 9-26-03 in the amount of \$15.00.**

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees for dates of service 9-22-03 through 9-26-03 as outlined above:

- in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c);

- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 21<sup>st</sup> day of October 2004.

Donna Auby

Medical Dispute Resolution Officer  
Medical Review Division

July 12, 2004

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

Patient:

TWCC #:

MDR Tracking #:

IRO #:

M5-04-3088-01

5251

Ziroc has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Ziroc for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

Ziroc has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The Ziroc health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Ziroc for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

## CLINICAL HISTORY

Brief Clinical History: Patient is a 37-year-old male laborer who, on \_\_\_\_, injured his lower back. He further stated that on that date, he was lying across a concrete platform that only supported the upper portion of his back, so he had to use the muscles in his lower extremities to stay flat. After about an hour in this position, he started developing lower back pain that progressed over the next several days. He was originally seen at a local VA hospital, but eventually changed treating doctors and began chiropractic care. He eventually received epidural steroid injections, as well.

## DISPUTED SERVICES

Under dispute is the medical necessity of office visits, with and without manipulation (99213, 99213-MP, 99213-25, 99212, 99212-25, 99211, 99211-25), joint mobilization (97265), myofascial release (97250), massage (97124), therapeutic exercise (97110), mechanical traction (97012), chiropractic manipulative therapy (98940, 98941), therapeutic procedures, group (97150), physical performance testing (97750, 97750-MT), diathermy (97024), electrical stimulation with ultrasound (97139-EU), and range of motion testing (95851) for dates of service 05/23/03 through 09/19/03, and then additionally for date of service 10/17/03.

## DECISION

The reviewer agrees with the prior adverse determination.

## BASIS FOR THE DECISION

Rationale/Basis for Decision: This patient was seen for an independent medical examination by Dr. F , on 01/29/03 and although the physician felt that care to date had been favorable, he went on to state, "I am not of the opinion that continued chiropractic treatment in excess of possibly another two to three weeks would be indicated." Even if this time were stretched to the end of February of 2003, the dates of these treatments in dispute are well in excess of that stated time frame.

Moreover, Section 413.011, Labor Code, provides that the TWCC must use the reimbursement policies and guidelines promulgated by the Medicare system. The "Physical Medicine and Rehabilitation for Orthopedic and Musculoskeletal Diseases and/or Injuries" Reimbursement Policies applicable to the Texas Medicare system provide as follows: "It is expected that patients undergoing rehabilitative therapy for musculoskeletal injuries in the absence of neurological compromise will transition to self-directed physical therapy within two months... Only the more refractory cases requiring additional therapy are expected to continue beyond this point and additional documentation of necessity and medical certification by the supervising physician is required." In this case, the treating doctor has more than exceeded the recommended two months of active care established by the Medicare Reimbursement Policies. Since no documentation was submitted establishing either (a) objective proof of neurological compromise, or (b) that this is a refractory case, the medical necessity of the treatment cannot be supported. In fact, according to Dr. L, neurologist, who evaluated the patient on 07/17/03, the patient was intact neurologically on physical examination, and exhibited a "Normal EMG."

Ziroc has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Ziroc has made no determinations regarding benefits available under the injured employee's policy

As an officer of ZRC Services, Inc, dba Ziroc, I certify that there is no known conflict between the reviewer, Ziroc and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Ziroc is forwarding this finding by US Postal Service to the TWCC.

Sincerely,